



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN 14 2005

REPLY TO THE ATTENTION OF
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James E. Reed
Kokomo Transmission Plant Manager
DaimlerChrysler Corporation
2401 South Reed Road
Kokomo, Indiana 46904-9007

Dear Mr. Reed:

Enclosed are a file stamped Consent Agreement and Final Order (CAFO) which resolves DaimlerChrysler Corporation (DaimlerChrysler), CAA Docket No. ~~CAA-05-2005~~ 0009 and an Administrative Consent Order (AO), EPA-05-05-113(a)-03-IN. As indicated by the filing stamp on the first page, we filed the CAFO with the Regional Hearing Clerk on 1-19-05.

Pursuant to paragraph 51 of the CAFO, DaimlerChrysler must pay the civil penalty within 30 days of 1-19-05. Your check must display the case docket number ~~CAA-05-2005~~ 0009, and billing docket number, 050305006.

Please direct any questions regarding the case to Christine Liszewski, Associate Regional Counsel, (312)886-4670.

Sincerely yours,

Brent Marable, Chief
Air Enforcement and Compliance Assurance Branch (IN)

Enclosure

05 JAN 19 P2:41
US ENVIRONMENTAL
PROTECTION AGENCY
REGION 5

REC'D
REGION 5

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

DaimlerChrysler Corporation
Kokomo, Indiana

Respondent.

) Docket No. **05-2005 0009**
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**Proceeding to Assess an
Administrative Penalty
under Section 113(d) of the
Clean Air Act,
42 U.S.C. § 7413(d)**

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection (U.S. EPA or Complainant) and DaimlerChrysler Corporation in Kokomo, Indiana (DaimlerChrysler or Respondent) have agreed to a settlement of this action before the filing of a complaint. Therefore, this action is simultaneously commenced and concluded pursuant to Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3)).

I. JURISDICTION

1. This is an administrative action for the assessment of civil penalties instituted pursuant to, Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

II. PARTIES

2. Complainant, by delegation from the Administrator of U.S. EPA and the Regional Administrator, U.S. EPA, Region 5, is the Director of the Air and Radiation Division.

3. Respondent is DaimlerChrysler, a Delaware corporation with a place of business at 2401 South Reed Road, Kokomo, Howard County, Indiana (the Facility).

III. U.S. EPA DETERMINATION'S REGARDING STATUTORY AND REGULATORY BACKGROUND

4. The Clean Air Act is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).

The National Ambient Air Quality Standards

5. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires the Administrator of U.S. EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare and the presence of which results from numerous or diverse mobile or stationary sources. For each such pollutant, Section 109 of the Act, 42 U.S.C. § 7409, requires U.S. EPA to promulgate national ambient air quality standards (NAAQS) requisite to protect the public health and welfare. Pursuant to Sections 108 and 109, U.S. EPA has identified and promulgated NAAQS for nitrogen dioxide (NO₂), sulfur dioxide (SO₂), and particulate matter (PM) (now measured in the ambient air as particulate matter of a diameter of 10 micrometers or less (PM₁₀) and particulate matter of a diameter of 2.5 micrometers or less (PM_{2.5})). 40 C.F.R. §§ 50.4 - 50.11.

6. Under Section 107(d) of the Act, 42 U.S.C. § 7497(d), each state is required to designate those areas within its boundaries where the air quality is better or worse than the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular pollutant is an "attainment"

area. An area that does not meet the NAAQS is a “nonattainment” area. An area that cannot be classified due to insufficient data is “unclassifiable.”

7. At all times relevant to this complaint, Howard County, where the Kokomo Transmission Plant is located, has been classified as attainment or unclassifiable for SO₂, NO₂ and PM/PM₁₀. 40 C.F.R. § 81.315.

The Prevention of Significant Deterioration Requirements

8. Part C of Title I of the Act, 42 U.S.C. §§ 7470-7492, sets forth requirements for the prevention of significant deterioration (PSD) of air quality in those areas designated as either attainment or unclassifiable for purposes of meeting the NAAQS standards. These requirements are designed to protect public health and welfare, to assure that economic growth will occur in a manner consistent with the preservation of existing clean air resources and to assure that any decision to permit increased air pollution is made only after careful evaluation of all the consequences of such a decision and after public participation in the decision making process. These provisions are referred to herein as the “PSD program.”

9. Sections 110(a) and 161 of the Act, 42 U.S.C. §§ 7410(a) and 7471, require states to adopt a state implementation plan (SIP) that contains emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality in areas designated as attainment or unclassifiable.

10. A state may comply with Sections 110(a) and 161 of the Act by having its own PSD regulations approved as part of its SIP by U.S. EPA, which must be at least as stringent as those set forth at 40 C.F.R. § 51.166.

11. If a state does not have a PSD program that has been approved by U.S. EPA and incorporated into the SIP, the federal PSD regulations set forth at 40 C.F.R. § 52.21 may be incorporated by reference into the SIP. 40 C.F.R. § 52.21(a).

12. On August 7, 1980, U.S. EPA disapproved Indiana's proposed PSD program and incorporated by reference the PSD regulations of 40 C.F.R. § 52.21(b) through (w) into the Indiana SIP at 40 C.F.R. § 52.793, and delegated to Indiana the authority to implement the federal PSD program incorporated into the Indiana SIP.

13. On March 3, 2003, U.S. EPA approved revisions to the Indiana SIP to incorporate Indiana's PSD program. Effective April 2, 2003, the federally-approved rules at 326 IAC 2-2, Prevention of Significant Deterioration Requirements, supercede the federal PSD program incorporated into the Indiana SIP at 40 C.F.R. § 52.793. 68 Fed. Reg. 9892 (March 3, 2003).

14. As set forth at 40 C.F.R. § 52.21(i) and 326 IAC 2-2-2(b), any "major stationary source" in an attainment or unclassifiable area that intends to construct a "major modification" must first obtain a PSD permit.

15. Under the PSD program, "major stationary source" is defined as, inter alia, a stationary source that emits or has the potential to emit 250 tons per year of a regulated pollutant. 40 C.F.R. § 52.21(b)(1)(i)(b) and 326 IAC 2-2-1(y)(2).

16. Under the PSD program, "construction" means "any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions." 40 C.F.R. § 52.21(b)(8) and 326 IAC 2-2-1(n). See also 42 U.S.C. § 7479(2)(C) ("construction" includes the "modification" of the source or facility).

17. Under the PSD program, a “major modification” is defined as any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act. 40 C.F.R. § 52.21(b)(2) and 326 IAC 2-2-1(x). “Net emissions increase” means “the amount by which the sum of the following exceeds zero: (a) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and (b) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.” 40 C.F.R. § 52.21(b)(3)(i) and 326 IAC 2-2-1(cc). “Significant” means a rate of emissions that would equal or exceed any of the following rates for the following pollutants: NO_x, 40 tons per year; SO₂, 40 tons per year; and PM, 25 tons per year. 40 C.F.R. § 52.21(b)(23)(i) and 326 IAC 2-2-1(jj).

18. The PSD regulations at 40 C.F.R. § 52.21(j) and 326 IAC 2-2-3(3) also require a source with a major modification in an attainment or unclassifiable area to install and operate best available control technology (BACT), as defined at 40 C.F.R. § 52.21(b)(12), 326 IAC 2-2-1(h), and 42 U.S.C. § 7479(3), for each pollutant regulated under the Act for which the modification would result in a significant net emissions increase. 42 U.S.C. § 7475(a)(4).

19. As set forth in 40 C.F.R. § 52.21(m) and 326 IAC 2-2-4(a), any application for a PSD permit must be accompanied by an analysis of ambient air quality in the area.

20. Section 165(a) of the Act, 42 U.S.C. § 7475(a), and the implementing regulations at 40 C.F.R. §§ 52.21(i) and (k) and 326 IAC 2-2-2(b), require the owner or operator to obtain a permit prior to construction of a major stationary source or of a major modification so that such a

source can demonstrate, inter alia, that the construction or modification, taken together with other increases or decreases of air emissions, will not violate applicable air quality standards.

21. As set forth in 40 C.F.R. § 52.21(n) and 326 IAC 2-2-10, the owner or operator of a proposed source or modification must submit all information necessary to perform any analysis or make any determination required under 40 C.F.R. § 52.21

Title V Permit Program

22. Title V of the Act, 42 U.S.C. §§ 7661a-7661f, establishes an operating permit program for certain sources, including “major sources.” Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), on July 21, 1992, EPA promulgated regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency.

57 Fed. Reg. 32295. These regulations are codified at 40 C.F.R. Part 70.

23. EPA promulgated final interim approval of the Indiana Title V program on November 14, 1995 (60 Fed. Reg. 57188), and the program became effective on December 14, 1995. The Indiana Title V program was granted final full approval by EPA, effective November 30, 2001. 66 Fed. Reg. 62969. Indiana’s Title V operating permit program is currently codified in the Indiana Administrative Code at Title 326 IAC Article 2, Rule 7.

24. Section 503(c) of the Act, 42 U.S.C. § 7661b(c), has at all relevant times provided that any person required to have a permit shall submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official who shall certify the accuracy of the information submitted. Section 503(b) of the Act, 42 U.S.C. § 7661b(b), requires a compliance plan to include, among other things, a “schedule of compliance.” Section 501(3) of the Act, 42 U.S.C. § 7661(3), defines a “schedule of compliance” as “a schedule of

remedial measures, including an enforceable sequence of actions or operations, leading to compliance with an applicable implementation plan, emission standard, emission limitation, or emission prohibition.”

25. Section 504(a) of the Act, 42 U.S.C. § 7661c(a), has at all relevant times required that each Title V permit include, among other things, enforceable emission limitations and standards, a schedule of compliance, and such other conditions as are necessary to assure compliance with applicable requirements of the Act and the requirements of the applicable SIP, including any PSD requirement to comply with an emission rate that meets BACT.

26. Section 70.1(b) of the Title V permit regulations, 40 C.F.R. § 70.1(b), requires all subject sources to have a permit to operate that assures compliance with all applicable requirements. Section 70.2 of the Title V permit regulations, 40 C.F.R. § 70.2, defines “applicable requirement” as “. . . (1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in part 52 of this chapter; (2) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act; . . .”

Enforcement Provisions

27. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for SIP, PSD and Title V permit violations that occurred from January 31, 1997 to March 15, 2004, and may assess a civil penalty

of up to \$32,500 per day of violation up to a total of \$270,00 for violations that occurred after March 15, 2004 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, as amended by 69 Fed. Reg. 7121 (Feb. 13, 2004).

28. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

29. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this complaint.

IV. ALLEGED VIOLATIONS

General Allegations

30. At all times relevant to this Consent Agreement and Final Order (CAFO), DaimlerChrysler (formerly Chrysler Corporation) was and is the owner and operator of the Kokomo Transmission Plant at 2401 South Reed Road, Kokomo, Howard County, Indiana.

31. The Facility has the potential to emit, among other things, greater than 250 tons per year of PM, SO₂ and NO_x.

32. The Facility includes three coal-fired stoker boilers designated as Boiler Nos. 1, 2 and 3 for steam production.

33. Boiler Nos. 1, 2 and 3 were built in 1955. Boiler Nos. 1 and 2 had not operated from 1972 to 1985. Except for a two-month period in 1977, Boiler No. 3 had not operated from 1972 to 1985.

34. In 1984, DaimlerChrysler renovated Boiler Nos. 1, 2 and 3 to allow full-time operation. The renovation included, among other things, installing economizers, and improving dust collection systems, soot blowers and coal handling equipment.

35. In 1985, DaimlerChrysler began operating Boiler Nos. 1, 2 and 3 full-time.

36. On December 30, 2003, U.S. EPA issued a Notice of Violation/Finding of Violation to DaimlerChrysler for violations of the Act and the Indiana SIP.

COUNT I
(PSD Violations)

37. At all times relevant to this CAFO, the Facility was a “major stationary source” for NO_x, SO₂ and PM as defined at 40 C.F.R. § 52.21(b)(1)(i) and 326 IAC 2-2-1(y)(2).

38. In 1984, DaimlerChrysler commenced construction of major modifications at the Facility as described in paragraph 34 above. These modifications resulted in significant net emission increases, as defined by 40 C.F.R. § 52.21(b)(23)(i) and 326 IAC 2-2-1(jj), of one or more of the following pollutants: NO_x, SO₂, and PM.

39. DaimlerChrysler violated and continues to violate Section 165(a) of the Act, 42 U.S.C. § 7475(a), the PSD regulations set forth in 40 CFR § 52.21 and incorporated into the Indiana SIP at 40 C.F.R. § 52.793, and the federally-approved Indiana PSD regulations at 326 IAC 2-2 by, among other things, undertaking such major modifications and operating its facility after the modifications without obtaining a PSD permit as required by 40 C.F.R. §§ 52.21(i)(1), 52.21(r)(1) and 326 IAC 2-2-2(b). In addition, DaimlerChrysler has not installed and operated

BACT for control of NO_x, SO₂ and PM, as applicable, as required by 40 C.F.R. § 52.21(j) and 326 IAC 2-2-1(h). DaimlerChrysler has failed and continues to fail: to demonstrate that the construction or modification would not cause or contribute to air pollution in violation of any ambient air quality standard or any specified incremental amount as required by 40 C.F.R. § 52.21(k) and 326 IAC 2-2-5; to perform an analysis of ambient air quality in the area as required by 40 C.F.R. 52.21(m) and 326 IAC 2-2-4(a), and, to submit to Indiana or U.S. EPA all information necessary to perform any analysis or make those determinations required under 40 C.F.R. § 52.21 as required by 40 C.F.R. § 52.21(n) and 326 IAC 2-2-10

40. Based upon the foregoing, DaimlerChrysler has violated and continues to violate Section 165(a) of the Act, 42 U.S.C. Section 7475(a), 40 C.F.R. § 52.21, and the federally-approved Indiana PSD regulations at 326 IAC 2-2.

COUNT II
(Title V Permit Program Violations)

41. At all times relevant to this CAFO, the Facility was a “major stationary source” within the meaning of Section 302(j) of the Act, 42 U.S.C. § 7602(j), and a “major source” as defined at 40 C.F.R. § 70.2.

42. As set forth in paragraph 34 above, DaimlerChrysler commenced major modifications as defined under the PSD regulations in the Indiana SIP at the Facility. As a result, these modifications triggered the requirements to, among other things, undergo BACT determinations, to obtain a PSD permit establishing emission limitations that meet BACT pursuant to such determinations, and to operate in compliance with such limitations.

43. Subsequently, DaimlerChrysler failed to submit an application for a Title V operating permit for the Facility that identifies all applicable requirements and contains a

compliance plan for all applicable requirements for which the source was not in compliance (including the requirement to meet BACT). DaimlerChrysler thereafter operated Boiler Nos. 1, 2 and 3 at the Facility without meeting such limitations and requirements and without having a valid operating permit that required compliance with such limitations and requirements or that contained a compliance plan for all applicable requirements for which the source was not in compliance. DaimlerChrysler's conduct violated Sections 503(c) and 504(a) of the Act, 42 U.S.C. §§ 7661b(c) and 7661c(a).

V. STIPULATIONS

44. DaimlerChrysler admits the jurisdictional allegations in the CAFO.

45. DaimlerChrysler admits the factual allegations set forth in Paragraphs 30 through 36.

46. DaimlerChrysler has denied and continues to deny the violations alleged in Paragraphs 37 through 43 of the CAFO, maintains that it has been and remains in compliance with the Act and is not liable for civil penalties or injunctive relief, and states that it is agreeing to the obligations imposed by this CAFO solely to improve the air quality of the region, to benefit the environment generally, and to avoid the costs and uncertainties of litigation.

47. DaimlerChrysler waives its right to contest the allegations in the CAFO, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

48. DaimlerChrysler certifies that it shall achieve and/or maintain full compliance with Section 165(a) of the Act, 42 U.S.C. § 7475(a), 40 C.F.R. § 52.21, the federally-approved Indiana PSD regulations at 326 IAC 2-2, and Sections 503(c) and 504(a) of the Act, 42 U.S.C. §§ 7661b(c) and 7661c(a), by implementing the compliance program set forth in Administrative

Consent Order, Docket No. EPA-5-05-113(a) IN-03, between U.S. EPA, Region 5, and DaimlerChrysler.

49. The parties consent to the terms of this CAFO.

50. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

VI. CIVIL PENALTY

51. Based upon an analysis of the penalty assessment criteria provided in Section 113(e) of the Act, 42 U.S. C. § 7413(e), U.S. EPA has determined that an appropriate civil penalty to settle this matter is \$110,000.00.

52. DaimlerChrysler must pay the \$110,000.00 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.

53. DaimlerChrysler must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

54. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Christine Liszewski, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

55. This civil penalty is not deductible for federal tax purposes

56. If DaimlerChrysler does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

57. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717(a)(1). DaimlerChrysler will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. DaimlerChrysler will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

VII. GENERAL PROVISIONS

58. This CAFO resolves U.S. EPA's claims for civil penalties for the violations alleged in the CAFO.

59. The effect of this settlement is conditional upon DaimlerChrysler's implementation of the compliance program set forth in Administrative Consent Order, Docket No. EPA-5-05-113(a) IN-03, between U.S. EPA and DaimlerChrysler (ACO). This CAFO shall terminate upon DaimlerChrysler's compliance with Paragraph 52 herein; provided, however, that the resolution described in paragraph 58 shall survive termination of this CAFO.

60. Except as otherwise set forth herein, nothing in this CAFO restricts U S. EPA's authority to seek DaimlerChrysler's compliance with the Act and other applicable laws and regulations.

61. This CAFO does not affect DaimlerChrysler's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

62. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine DaimlerChrysler's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

63. The terms of this CAFO bind DaimlerChrysler, and its successors, and assigns.

64. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

65. Each party agrees to bear its own costs and fees in this action.

66. This CAFO and the ACO constitute the entire agreement between the parties regarding this matter.

CONSENT AGREEMENT AND FINAL ORDER

DaimlerChrysler Corporation

Docket No.

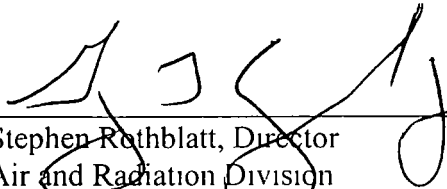
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**U.S. Environmental Protection
Agency, Complainant**

Date:

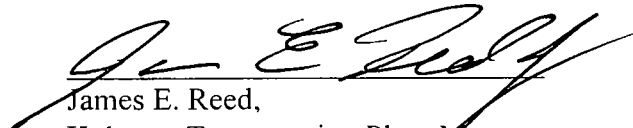
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By:

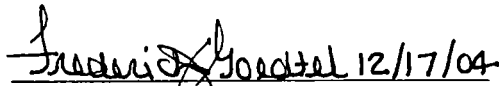
 ACTING
Stephen Rothblatt, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

DaimlerChrysler Corporation, Respondent

12-16-04
Date


James E. Reed,
Kokomo Transmission Plant Manager
DaimlerChrysler Corporation

Date

 12/17/04
Frederick J. Goedel, Jr.,
Vice-President, Power Train Mfg.
DaimlerChrysler Corporation

CONSENT AGREEMENT AND FINAL ORDER

DaimlerChrysler Corporation

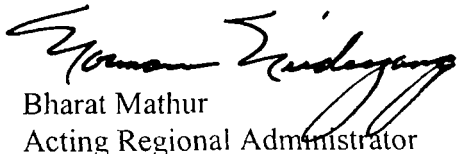
Docket No.

CA-05-2005 0009

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: 11/14/05


for Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

I also certify that I sent a copy of the Administrative
Consent Order No. EPA-05-05-113(a)-03-IN was sent by First Class
Mail to:

David McIver, Chief
Office of Enforcement, Air Section
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

on the 19th day of January 2005.

Betty Williams for

Betty Williams
Administrative Program Assistant
AECAS(IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1558 5007

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 8909 7054
Patrick D. Traylor

In the Matter of DaimlerChrysler Corporation
Docket No:

~~CMA-05~~ 2005 0009

CERTIFICATE OF FILING AND MAILING

I, Betty Williams, do hereby certify that I hand delivered the original of the Consent Agreement and Final Order (CAFO), docket number ~~CMA-05~~ 2005 0009 and Administrative Consent Order EPA-05-05-113(a)-03-IN to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and that correct copies, were mailed first-class, postage prepaid, certified mail, return receipt requested, to:

James E. Reed
Kokomo Transmission Plant Manager
DaimlerChrysler Corporation
2401 South Reed Road
Kokomo, Indiana 46904-9007

Patrick D. Traylor
Partner
Hogan & Hartson, L.L.P.
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004-1109

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent the Administrative Consent Order and the Consent Agreement and Final Order, **EPA-05-05-113(a)-03-IN**, by Certified Mail, Return Receipt Requested, to:

James E. Reed
Kokomo Transmission Plant Manager
DaimlerChrysler Corporation
2401 South Reed Road
Kokomo, Indiana 46904-9007

Patrick D. Traylor
Partner
Hogan & Hartson, L.L.P.
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004-1109

I also certify that I sent a copy of the Administrative Consent Order No. **EPA-05-05-113(a)-03-IN**, First Class Mail to:

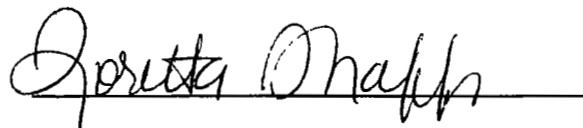
David McIver, Chief
Office of Enforcement, Air Section
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

U.S. ENVIRONMENTAL
PROTECTION AGENCY
REGION V

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RECEIVED
REGIONAL OFFICE
JAN 19 2005

on the 19th day of January 2005.



Betty Williams
AECAS (IL/IN)

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7001 0320 0005 8909 7056

EPA-05- 2005 0009

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
DaimlerChrysler Corporation)	Administrative Consent Order
)	
Proceeding Under)	EPA-5-05-113(a) IN-03
Section 113(a)(1)(A) and (a)(3) of the)	
Clean Air Act,)	
42 U.S.C. § 7413(a)(1)(A) and (a)(3))	
_____)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to DaimlerChrysler Corporation (DaimlerChrysler) under Section 113(a)(1)(A) and (a)(3) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(1)(A) and (a)(3).

**U.S. EPA Determinations Regarding
Statutory and Regulatory Background**

2 The Act is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).

The National Ambient Air Quality Standards

3. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires the Administrator of U.S. EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare and the presence of which results from numerous or diverse mobile or stationary sources. For each such pollutant, Section 109 of the Act, 42 U.S.C. § 7409,

requires U.S. EPA to promulgate national ambient air quality standards (NAAQS) requisite to protect the public health and welfare. Pursuant to Sections 108 and 109, U.S. EPA has identified and promulgated NAAQS for nitrogen dioxide (NO₂), sulfur dioxide (SO₂), and particulate matter (PM) (now measured in the ambient air as particulate matter of a diameter of 10 micrometers or less (PM₁₀) and particulate matter of a diameter of 2.5 micrometers or less (PM_{2.5})). 40 C.F.R. §§ 50.4 - 50.11.

4. Under Section 107(d) of the Act, 42 U.S.C. § 7497(d), each state is required to designate those areas within its boundaries where the air quality is better or worse than the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular pollutant is an “attainment” area. An area that does not meet the NAAQS is a “nonattainment” area. An area that cannot be classified due to insufficient data is “unclassifiable.”

5. At all times relevant to this complaint, Howard County, where the Kokomo Transmission Plant is located, has been classified as attainment or unclassifiable for SO₂, NO₂ and PM/PM₁₀. 40 C.F.R. § 81.315.

The Prevention of Significant Deterioration Requirements

6. Part C of Title I of the Act, 42 U.S.C. §§ 7470-7492, sets forth requirements for the prevention of significant deterioration (PSD) of air quality in those areas designated as either attainment or unclassifiable for purposes of meeting the NAAQS standards. These requirements are designed to protect public health and welfare, to assure that economic growth will occur in a manner consistent with the preservation of existing clean air resources and to assure that any decision to permit increased air pollution is made only after careful evaluation of

all the consequences of such a decision and after public participation in the decision making process. These provisions are referred to herein as the “PSD program ”

7. Sections 110(a) and 161 of the Act, 42 U.S.C. §§ 7410(a) and 7471, require states to adopt a state implementation plan (SIP) that contains emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality in areas designated as attainment or unclassifiable.

8. A state may comply with Sections 110(a) and 161 of the Act by having its own PSD regulations approved as part of its SIP by U.S. EPA, which must be at least as stringent as those set forth at 40 C.F.R. § 51.166.

9. If a state does not have a PSD program that has been approved by U.S. EPA and incorporated into the SIP, the federal PSD regulations set forth at 40 C.F.R. § 52.21 may be incorporated by reference into the SIP. 40 C.F.R. § 52.21(a).

10. On August 7, 1980, U.S. EPA disapproved Indiana’s proposed PSD program and incorporated by reference the PSD regulations of 40 C.F.R. § 52.21(b) through (w) into the Indiana SIP at 40 C.F.R. § 52.793, and delegated to Indiana the authority to implement the federal PSD program incorporated into the Indiana SIP.

11. On March 3, 2003, U.S. EPA approved revisions to the Indiana SIP to incorporate Indiana’s PSD program. Effective April 2, 2003, the federally-approved rules at 326 IAC 2-2, Prevention of Significant Deterioration Requirements, supercede the federal PSD program incorporated into the Indiana SIP at 40 C.F.R. § 52.793. 68 Fed. Reg. 9892 (March 3, 2003).

12. As set forth at 40 C.F.R. § 52.21(i) and 326 IAC 2-2-2(b), any “major stationary source” in an attainment or unclassifiable area that intends to construct a “major modification”

must first obtain a PSD permit.

13. Under the PSD program, “major stationary source” is defined as, inter alia, a stationary source that emits or has the potential to emit 250 tons per year of a regulated pollutant. 40 C.F.R. § 52.21(b)(1)(i)(b) and 326 IAC 2-2-1(y)(2).

14 Under the PSD program, “construction” means “any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.” 40 C.F.R. § 52.21(b)(8) and 326 IAC 2-2-1(n). See also 42 U.S.C. § 7479(2)(C)(“construction” includes the “modification” of the source or facility).

15. Under the PSD program, a “major modification” is defined as any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act. 40 C.F.R. § 52.21(b)(2) and 326 IAC 2-2-1(x). “Net emissions increase” means “the amount by which the sum of the following exceeds zero: (a) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and (b) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.” 40 C.F.R. § 52.21(b)(3)(i) and 326 IAC 2-2-1(cc). “Significant” means a rate of emissions that would equal or exceed any of the following rates for the following pollutants: NO_x, 40 tons per year; SO₂, 40 tons per year; and PM, 25 tons per year. 40 C.F.R. § 52.21(b)(23)(i) and 326 IAC 2-2-1(jj).

16. The PSD regulations at 40 C.F.R. § 52.21(j) and 326 IAC 2-2-3(3) also require a source with a major modification in an attainment or unclassifiable area to install and operate

best available control technology (BACT), as defined at 40 C.F.R. § 52.21(b)(12), 326 IAC 2-2-1(h), and 42 U.S.C. § 7479(3), for each pollutant regulated under the Act for which the modification would result in a significant net emissions increase. 42 U.S.C. § 7475(a)(4).

17. As set forth in 40 C.F.R. § 52.21(m) and 326 IAC 2-2-4(a), any application for a PSD permit must be accompanied by an analysis of ambient air quality in the area.

18. Section 165(a) of the Act, 42 U.S.C. § 7475(a), and the implementing regulations at 40 C.F.R. §§ 52.21(i) and (k) and 326 IAC 2-2-2(b), require the owner or operator to obtain a permit prior to construction of a major stationary source or of a major modification so that such a source can demonstrate, inter alia, that the construction or modification, taken together with other increases or decreases of air emissions, will not violate applicable air quality standards.

19. As set forth in 40 C.F.R. § 52.21(n) and 326 IAC 2-2-10, the owner or operator of a proposed source or modification must submit all information necessary to perform any analysis or make any determination required under 40 C.F.R. § 52.21

Title V Permit Program

20. Title V of the Act, 42 U.S.C. §§ 7661a-7661f, establishes an operating permit program for certain sources, including “major sources.” Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), on July 21, 1992, EPA promulgated regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. 57 Fed. Reg. 32295. These regulations are codified at 40 C.F.R. Part 70.

21. EPA promulgated final interim approval of the Indiana Title V program on November 14, 1995 (60 Fed. Reg. 57188), and the program became effective on December 14, 1995. The Indiana Title V program was granted final full approval by EPA, effective November

30, 2001. 66 Fed. Reg. 62969. Indiana's Title V operating permit program is currently codified in the Indiana Administrative Code at Title 326 IAC Article 2, Rule 7.

22. Section 503(c) of the Act, 42 U.S.C. § 7661b(c), has at all relevant times provided that any person required to have a permit shall submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official who shall certify the accuracy of the information submitted. Section 503(b) of the Act, 42 U.S.C. § 7661b(b), requires a compliance plan to include, among other things, a "schedule of compliance." Section 501(3) of the Act, 42 U.S.C. § 7661(3), defines a "schedule of compliance" as "a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with an applicable implementation plan, emission standard, emission limitation, or emission prohibition."

23. Section 504(a) of the Act, 42 U.S.C. § 7661c(a), has at all relevant times required that each Title V permit include, among other things, enforceable emission limitations and standards, a schedule of compliance, and such other conditions as are necessary to assure compliance with applicable requirements of the Act and the requirements of the applicable SIP, including any PSD requirement to comply with an emission rate that meets BACT.

24. Section 70.1(b) of the Title V permit regulations, 40 C.F.R. § 70.1(b), requires all subject sources to have a permit to operate that assures compliance with all applicable requirements. Section 70.2 of the Title V permit regulations, 40 C.F.R. § 70.2, defines "applicable requirement" as " . . . (1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to

that plan promulgated in part 52 of this chapter; (2) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act; . . .”

Enforcement Provisions

25. Under Section 113(a)(1)(A) of the Act, 42 U.S.C. § 7413(a)(1)(A), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating a SIP. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating Title V permit regulations at 40 C.F.R. Part 70. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

U.S. EPA’s Findings of Fact

26. At all times relevant to this Order, DaimlerChrysler (formerly Chrysler Corporation) was and is the owner and operator of the Kokomo Transmission Plant at 2401 South Reed Road, Kokomo, Howard County, Indiana (the Facility).

27. The Facility has the potential to emit, among other things, greater than 250 tons per year of PM, SO₂ and NO_x.

28. The Facility includes three coal-fired stoker boilers designated as Boiler Nos. 1, 2 and 3 for steam production.

29. Boiler Nos. 1, 2 and 3 were built in 1955. Boiler Nos. 1 and 2 had not operated from 1972 to 1985. Except for a two-month period in 1977, Boiler No. 3 had not operated from 1972 to 1985.

30. In 1984, DaimlerChrysler renovated Boiler Nos. 1, 2 and 3 to allow full-time

operation. The renovation included, among other things, installing the economizers, and replacing dust collection systems, soot blowers and coal handling equipment.

31. In 1985, DaimlerChrysler began operating Boiler Nos. 1, 2 and 3 full-time

32. On December 30, 2003, U.S. EPA issued a Notice of Violation/Finding of Violation to DaimlerChrysler for violations of the Act and Indiana SIP.

Violations Alleged by U.S. EPA

COUNT I **(PSD Violations)**

33. At all times relevant to this Order, the Facility was a "major stationary source" for NO_x, SO₂ and PM as defined at 40 C.F.R. § 52.21(b)(1)(i) and 326 IAC 2-2-1(y)(2).

34. In 1984, DaimlerChrysler commenced construction of major modifications at the Facility as described in paragraph 30 above. These modifications resulted in significant net emission increases, as defined by 40 C.F.R. § 52.21(b)(23)(i) and 326 IAC 2-2-1(jj), of one or more of the following pollutants: NO_x, SO₂, and PM.

35. DaimlerChrysler violated and continues to violate Section 165(a) of the Act, 42 U.S.C. § 7475(a), the PSD regulations set forth in 40 C.F.R. § 52.21 and incorporated into the Indiana SIP at 40 C.F.R. § 52.793, and the federally-approved Indiana PSD regulations at 326 IAC 2-2 by, among other things, undertaking such major modifications and operating its facility after the modifications without obtaining a PSD permit as required by 40 C.F.R. §§ 52.21(i)(I), 52.21(r)(1) and 326 IAC 2-2-2(b). In addition, DaimlerChrysler has not installed and operated BACT for control of NO_x, SO₂ and PM, as applicable, as required by 40 C.F.R. § 52.21(j) and 326 IAC 2-2-1(h). DaimlerChrysler has failed and continues to fail: to demonstrate that the construction or modification would not cause or contribute to air pollution

in violation of any ambient air quality standard or any specified incremental amount as required by 40 C.F.R. § 52.21(k) and 326 IAC 2-2-5; to perform an analysis of ambient air quality in the area as required by 40 C.F.R. 52.21(m) and 326 IAC 2-2-4(a); and, to submit to Indiana or U.S. EPA all information necessary to perform any analysis or make those determinations required under 40 C.F.R. § 52.21 as required by 40 C.F.R. § 52.21(n) and 326 IAC 2-2-10.

36. Based upon the foregoing, DaimlerChrysler has violated and continues to violate Section 165(a) of the Act, 42 U.S.C. Section 7475(a), 40 C.F.R. § 52.21, and the federally-approved Indiana PSD regulations at 326 IAC 2-2.

COUNT II
(Title V Permit Program Violations)

37. At all times relevant to this Order, the Facility was a “major stationary source” within the meaning of Section 302(j) of the Act, 42 U.S.C. § 7602(j), and a “major source” as defined at 40 C.F.R. § 70.2.

38. As set forth in paragraph 30 above, DaimlerChrysler commenced major modifications as defined under the PSD regulations in the Indiana SIP at the Facility. As a result, these modifications triggered the requirements to, among other things, undergo BACT determinations, to obtain a PSD permit establishing emission limitations that meet BACT pursuant to such determinations, and to operate in compliance with such limitations.

39. Subsequently, DaimlerChrysler failed to submit an application for a Title V operating permit for the Facility that identifies all applicable requirements and contains a compliance plan for all applicable requirements for which the source was not in compliance (including the requirement to meet BACT). DaimlerChrysler thereafter operated Boiler Nos. 1, 2 and 3 at the Facility without meeting such limitations and requirements and without having a

valid operating permit that required compliance with such limitations and requirements or that contained a compliance plan for all applicable requirements for which the source was not in compliance. DaimlerChrysler's conduct violated Sections 503(c) and 504(a) of the Act, 42 U.S.C. §§ 7661b(c) and 7661c(a).

Agreed Compliance Program

40. DaimlerChrysler shall achieve, demonstrate and maintain compliance with Section 165(a) of the Act, 42 U.S.C. § 7475(a), the federally-approved Indiana PSD regulations at 326 IAC 2-2, and Sections 503(c) and 504(a) of the Act, 42 U.S.C. §§ 7661b(c) and 7661c(a), at its Facility as described in this Order.

41. Commencing with the effective date of this Order and until such time as DaimlerChrysler's permit referenced in paragraph 43 is issued, at which point only the provisions of the approved permit shall apply, for as long as DaimlerChrysler operates Boiler Nos. 1, 2 and 3, DaimlerChrysler shall comply with the interim pollution control measures set forth below:

- a. a NO_x emission rate (meaning the number of pounds of NO_x emitted per million BTU of heat input (lbs/mmBTU)) of no greater than 0.50 lbs/mmBTU ("lbs/mmBTU" means pounds per million British Thermal Units of heat input, based on higher heating value (hhv));
- b. Sulfur content of coal or other fossil fuel burned of no greater than 1.6 percent for each of the first 12 months following the effective date of this Order and 1.25 percent as a 12-Month Rolling Average for the 13th month and all subsequent months (to be determined by calculating the sulfur content for a given month and

then arithmetically averaging the sulfur content for the previous 11 months with that month); and

c. a PM emission rate (meaning the average number of pounds of PM emitted per million BTU of heat input (lbs/mmBTU)), of no greater than 0.24 lbs/mmBTU.

42. DaimlerChrysler shall demonstrate compliance with the limits specified in paragraph 41 as follows in the event that such date is reached before the permit referenced in paragraph 43 is issued:

a. for NO_x, through stack tests to be conducted in accordance with 40 C.F.R. Part 60, Appendix A, no later than April 1, 2005, and again no later than April 1, 2006;

b for PM, through stack tests to be conducted in accordance with 40 C.F.R. Part 60, Appendix A, no later than April 1, 2005, and again no later than April 1, 2006; and

c. for sulfur content, using the procedures for coal sampling and analysis specified in the Part 70 Operating Permit (Title V Permit) issued by the Indiana Department of Environmental Management (IDEM) for the Facility;

provided, however, that such stack tests shall be performed at the common stack serving Boiler Nos. 1, 2, and 3 operating together as many boilers as may be in service at the time.

43. Within 60 days of the effective date of this Order, DaimlerChrysler shall submit an application for an amendment to its Part 70 Operating Permit, which shall include, at a minimum, the provisions set forth below:

a. a schedule for the permanent shutdown (meaning permanently discontinuing

boiler operation) and demolition of Boiler Nos. 1, 2 and 3 according to the following schedule:

(1) one coal-fired boiler by December 31, 2005; and

(2) the remaining two coal-fired boilers by December 31, 2006.

b. interim pollution control measures for Boiler Nos. 1, 2, and 3 consistent with the limitations specified in paragraph 41, such control measures to be effective only as long as Boiler Nos. 1, 2, or 3 are in operation;

c. monitoring for compliance with the interim control measures (such monitoring to be required only as long as Boiler Nos. 1, 2, or 3 are in operation) as follows:

(1) for NO_x , through a stack test to be conducted in accordance with 40 C.F.R. Part 60, Appendix A, no later than April 1, 2005 and a stack test to be conducted no later than April 1, 2006;

(2) for PM, through a stack test to be conducted in accordance with 40 C.F.R. Part 60, Appendix A, no later than April 1, 2005 and a stack test to be conducted no later than April 1, 2006; and

(3) for sulfur content, using the procedures for coal sampling and analysis specified in the Part 70 Operating Permit issued by IDEM for the Facility.

d. a commitment that DaimlerChrysler will never use or sell in any emission trading or marketing program of any kind any SO_2 or PM emission allowances or credits resulting from the shutdown of the coal-fired boilers and that DaimlerChrysler will never use or sell in any emission trading or marketing program of any kind more than 60 tons per year in NO_x emission allowances or

credits resulting from the shutdown of the coal-fired boilers; and

e. a commitment that DaimlerChrysler will never use any SO₂ or PM emission reductions generated as a result of the shutdown of the coal-fired boilers for the purpose of obtaining netting credits or offsets under the Act's PSD or NSR (meaning the nonattainment area new source review program within the meaning of Part D of Subchapter I of the Act, 42 U.S.C. §§ 7510-7515, 40 C.F.R. Part 51, and 326 IAC 2-1,2-3) programs including, but not limited to, the Permit to Construct described in paragraph 43 and that DaimlerChrysler will never use more than 60 tons per year in NO_x emission reductions generated as a result of the shutdown of the coal-fired boilers for the purpose of obtaining netting credits or offsets under the Act's PSD or NSR programs.

44. DaimlerChrysler shall submit a copy of the application for an amendment to its Part 70 Operating Permit and all correspondence related to the application described in paragraph 43 to U.S. EPA at the same time the application is submitted to IDEM.

45. DaimlerChrysler shall submit a copy of this Order to IDEM with the application for amendment to its Part 70 Operating Permit described in paragraph 43.

46. Until such time as DaimlerChrysler's permit referenced in paragraph 43 is issued, at which point only the provisions of the approved permit shall apply, at least 30 days prior to the dates on which DaimlerChrysler proposes to conduct the April 2006 stack tests required by paragraph 42, DaimlerChrysler shall submit an "Intent to Test" notification to U.S. EPA. The notification shall describe in detail the proposed test methods and procedures, the source operating parameters, the time and date of the test, and the person conducting the test. Testing

cannot proceed until, and unless, DaimlerChrysler has received U.S. EPA's prior written acceptance of the testing procedures and other parameters in the Intent to Test notification. DaimlerChrysler shall provide U.S. EPA with an opportunity to observe such test. Within 30 days after the completion of the emissions test, DaimlerChrysler shall submit a complete emission test report detailing the result of the test to U.S. EPA.

47. Until such time as DaimlerChrysler's permit referenced in paragraph 43 is issued, at which point only the provisions of the approved permit shall apply, beginning on the effective date of this Order, DaimlerChrysler shall submit quarterly progress reports to U.S. EPA. These reports shall describe the work performed on the shutdown of Boiler Nos. 1, 2 and 3, the status of the permit application described in paragraph 43 and, to the extent applicable, the results of coal sampling and analysis for sulfur content as provided by paragraphs 41 and 42. DaimlerChrysler shall provide such quarterly progress reports within 30 days following the end of each calendar quarter (meaning the three-month periods ending on March 31, June 30, September 30 and December 31).

General Provisions

48. DaimlerChrysler has denied and continues to deny the violations alleged in the December 30, 2003, Notice of Violation, the Consent Agreement and Final Order (CAFO), Docket No. _____ between U.S. EPA, Region 5 and DaimlerChrysler, and Paragraphs 33 through 39 of this Order, maintains that it has been and remains in compliance with the Act and is not liable for civil penalties or injunctive relief, and states that it is agreeing to the obligations imposed by this Order solely to improve the air quality of the region, to benefit the environment generally, and to avoid the costs and uncertainties of litigation.

49. This Order does not affect DaimlerChrysler's responsibility to comply with other local, state, and federal laws and regulations.

50. Except as set forth herein, this Order does not restrict U.S. EPA's authority to enforce the Indiana SIP or any section of the Act including, but not limited to, Section 113 of the Act, 42 U.S.C. § 7413, Section 165(a) of the Act, 42 U.S.C. § 7475(a), 40 C.F.R. § 52.21, the federally-approved Indiana PSD regulations at 326 IAC 2-2, and Section 503(c) and 504(a) of the Act, 42 U.S.C. §§ 7661b(c) and 7661c(a).

51. This Order resolves U.S. EPA's claims for injunctive relief for the violations alleged in this Order.

52. Failure to comply with this Order may subject DaimlerChrysler to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 69 Fed. Reg. 7121 (Feb. 13, 2004) (amending 40 C.F.R. Part 19).

53. The terms of this Order are binding on DaimlerChrysler, its assignees and successors. DaimlerChrysler must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the address, that DaimlerChrysler has given the notice.

54. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

55. All notices and submissions that DaimlerChrysler is required to submit to U.S. EPA

by this Order shall be certified by a responsible corporate official, and accompanied by the following certification:

I certify that the information contained in or accompanying this submission is true, accurate and complete. This certification is based on my personal preparation, review, or analysis of the submission, and/or supervision of persons who, acting on my direct instructions, made the verification that the submitted information is true, accurate and complete.

DaimlerChrysler must submit all notices and submissions required by this Order to.

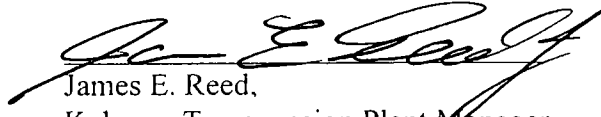
Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

56. U.S. EPA may use any information submitted under this Order in an administrative, civil, or criminal action.

57. DaimlerChrysler agrees to the terms of this Order.

58. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate upon issuance of an amended Part 70 Operating Permit by the State of Indiana containing, as a minimum, the requirements specified in paragraphs 41 and 43; provided, however, that the resolution described in paragraph 51 shall survive termination of this Order. The parties anticipate that IDEM will issue a permit no later than one year from the effective date of this Order.

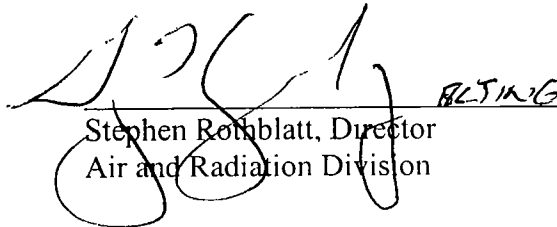
12-12-04
Date


James E. Reed,
Kokomo Transmission Plant Manager
DaimlerChrysler Corporation

Date

Frederick J. Godtel 12/17/04.
Frederick J. Godtel, Jr.,
Vice-President, Power Train Mfg.
DaimlerChrysler Corporation

1/12/05
Date


Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent the Administrative
Consent Order and the Consent Agreement and Final Order,
EPA-05-05-113(a)-03-IN, by Certified Mail, Return Receipt

Requested, to:

James E. Reed
Kokomo Transmission Plant Manager
DaimlerChrysler Corporation
2401 South Reed Road
Kokomo, Indiana 46904-9007

Patrick D. Traylor
Partner
Hogan & Hartson, L.L.P.
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004-1109

I also certify that I sent a copy of the Administrative
Consent Order No. **EPA-05-05-113(a)-03-IN**, First Class Mail to:

David McIver, Chief
Office of Enforcement, Air Section
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

U.S. ENVIRONMENTAL
PROTECTION AGENCY
REGION V

05 JAN 19 P2:41

RECEIVED
REGIONAL OFFICE
JAN 19 2005

on the 19th day of January 2005.



Betty Williams
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1558 5007
7001 0320 0005 8909 7056

EPA-05- 2005 0009